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| REQUEST FOR TENDER |

Cyclone Imogen Recovery works

ESC.0013.2021E.REC

ESC.0016.2021E.REC

Contract No.: ESC 2022-002

1. [**PART 1 – PREAMBLE**](#OLE_LINK4)
2. [**PART 2 – TENDER INFORMATION**](#Text320)
3. [**PART 3 – CONDITIONS OF TENDERING**](#SectionC)
4. [**PART 4 – THE CONTRACT**](#SectionD)
5. **PART 5 – SCOPE**
6. [**PART 6 – RESPONSE SCHEDULES**](#SectionF)

Following the declaration of the “Severe Tropical Cyclone Imogen and associated rainfall and flooding between January and March 2021” as an activated event under DRFA arrangements, Etherdige Shire Council commenced lodging submissions for the restoration of road assets.

The Etheridge Shire Council (ESC) is undertaking works to restore their road assets.

This 2021 Disaster Recovery Funding Arrangements (DRFA) project is across the entirety of the ESC region.

Completion of works by June 30 2023.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Principal: | Etheridge Shire Council | | | | | | |
| Project Name: | Cyclone Imogen Recovery works | | | | | | |
| Scope: | The Etheridge Shire Council (ESC) is undertaking works to restore their road assets as described in more detail in Part 5 – Scope | | | | | | |
| **Site:** | Various locations across Etheridge Shire Council Region | | | | | | |
| **Proposed Timetable:** | **Action** | | | | | | **Proposed date** |
| Tender Close | | | | | | 25 Feb 2022 |
| Tender Award | | | | | | 17 March 2022 |
| Works Commencment | | | | | | 4 April 2022 |
| Works Completed | | | | | | 16 December 2022 |
| **Tender briefing or site inspection:** | Description | | Time and Date | Place | Maximum attendees | Mandatory or optional | RSVP |
| [DESCRIBE EVENT] | | [INSERT TIME AND DATE] | [INSERT ADDRESS] | [INSERT NUMBER] | Not Applicable | RSVP to [INSERT EMAIL ADDRESS] by [INSERT TIME AND DATE] |
| **Communication Method:** |  | On-line tender forum: | | | | | |
|  | Email:info@etheridge.qld.gov.au | | | | | |
| **Communication Closing Time:** | 7 calendar days prior to the Tender Closing Time as amended, if at all, pursuant to the Conditions of Tendering. | | | | | | |
| **Tender Closing Time:** | 5pm on 25 Febuary 2022  *Note// The Tenderer must allow adequate time for the Tender (including all supporting documents) to upload to or be received in the Tender Box by the Tender Closing Time.* | | | | | | |
| **Evaluation Criteria:** | **Criteria** | | | | | **Weighting (%)** | |
| Company Experience | | | | | 20 | |
| Supervision and Management Experience | | | | | 30 | |
| Program of works | | | | | 10 | |
| Local content | | | | | 10 | |
| Value for Money | | | | | 30 | |
|  | | | | |  | |
| **Tender Box:** | [tender@etheridge.qld.gov.au](mailto:tender@etheridge.qld.gov.au) | | | | | | |
| **Tender Format:** | Tenders must consist of:   * 1x complete Tender in a single PDF document; and * 1x set of the Response Schedules in the format provided by the Principal   File names must include the contract number and a brief description of the document. | | | | | | |
| **Page Limit** | No Limit | | | | | | |
| **Tender Validity Period:** | 90 calendar days from the Tender Closing Time | | | | | | |
| **Procurement Administrator:** | Etherdige Shire Council | | | | | | |
| **Principal's Complaints Manager:** | **Name:** | | Brett Fulloon | | | | |
| **Telephone:** | | 0438 666144 | | | | |
| **Email:** | | Bfulloon@shepherdservices.com.au | | | | |

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* 1. GENERAL

(**Procurement Administrator**)Any right or obligation of the Principal under or in relation to these Tender Documents may be exercised or carried out by the Procurement Administrator.

(**Conduct of the Procurement Process**) The Principal may conduct the Procurement Process in any manner which it sees fit, but will endeavour to do so in a manner which is consistent with this Request for Tender. The Principal may do anything which it considers to be prudent or necessary for the proper conduct of the Procurement Process, including:

* + - 1. (**alteration of request for Tender Documents**) amend, add to or delete any part of the Tender Documents including:
         1. the procedures and timeframes provided in the Request for Tender;
         2. the Evaluation Criteria (including weightings);
         3. the Scope of Work;
         4. the Contract;
      2. (**suspension or termination**) suspend or terminate the Procurement Process;
      3. (**attendances**) request any one or more Tenderers to attend a Tender briefing, site inspection or other meeting or to make a presentation of their Tender in person at the Principal's office at no cost to the Principal;
      4. (**change or error in Tender Documents**)request any one or more Tenderers to change their Tender to take account of a change in the Tender Documents or any error in such documents;
      5. (**clarification or alteration**) request any one or more Tenderers to clarify or alter any aspect of the Tenderer's Tender;
      6. (**additional information)** request additional information from one or more Tenderers relating to a Tender, the Procurement Process, the Tenderer’s compliance with the Conditions of Tendering or any other matter which the Principal considers relevant to its assessment (including information that should have been, but was not, included in the Tenderer’s Tender);
      7. (**negotiation**)negotiate amendments to any aspect of a Tender with any one or more Tenderers and suspend or terminate such negotiations at any time;

(**Complaints in relation to the Procurement Process**) The Tenderer must make any complaint in relation to the Procurement Process or the Request for Tender immediately upon the cause of the complaint arising or upon the Tenderer becoming aware of the cause. The complaint must be made in writing to the Principal's Complaints Manager and must contain adequate detail to allow the Principal's Complaints Manager to properly investigate the complaint.

(**Conduct of Tenderers**) The Tenderer must not, and must ensure that its Personnel do not engage in any Improper Conduct. The Tenderer must immediately notify the Principal in the event that it becomes aware that it, or any of its Personnel have engaged in Improper Conduct.

(**No** **warranty**) The Principal gives no warranty and makes no representation that the Tender Documents or any other information provided to the Tenderer in connection with the Procurement Process is accurate, adequate or complete.

(**No liability**) Neither the Principal nor its Personnel shall be liable upon any Claim for any Specified Loss in connection with the Procurement Process.

* 1. tender briefings and site inspections

(**Attendance**) The Tenderer must attend any tender briefing or a site inspection identified in the Tender Information, unless the Tender Information provides that attendance is optional.

(**RSVP**) The Tenderer must confirm that it intends to attend the tender briefing or site inspection to the email address and by the time and date stated in the Tender Information and may only bring a maximum of the number of Personnel noted in the Tender Information.

(**Safety**) The Tenderer must inform itself of risks to health and safety arising from attendance at the tender briefing or site inspection and take all reasonable steps to ensure that such risks are eliminated or, if it is not possible to eliminate them, to minimise them so far as is practicable.

* 1. COMMUNICATIONS DURING PROCUREMENT PROCESS

(**Communication Method**) All communications by the Procurement Administrator to the Tenderer shall at first instance be made using the Communication Method. Except where expressly permitted by these Conditions of Tendering, all communications by the Tenderer to the Principal in connection with the Procurement Process shall at first instance be directed to the Procurement Administrator using the Communication Method. No other communication method may be utilised by the Tenderer unless expressly permitted by the Procurement Administrator or where technical difficulties prevent the Tenderer from utilising the Communication Method or the Procurement Administrator expressly agrees to an alternative method.

(**Tenderer’s responsibility**) The Tenderer must ensure that it is capable of receiving and does receive all communications to the Tenderer in connection with the Procurement Process. Where the Communication Method is email, it is the Tenderer’s responsibility to ensure that it notifies the Procurement Administrator of the correct email address for receiving communications. Where the Communication Method is through a website, the Tenderer must ensure that it is properly registered with and capable of receiving communications through the website.

(**Confidentiality of communications**)The Procurement Administrator may notify any or all Tenderers of a request for further information made by a Tenderer and the Procurement Administrator’s response to it without identifying the submitting Tenderer or may keep a request for information confidential and respond only to the Tenderer if it considers that it is appropriate to do so.

(**No** **reliance**) The Tenderer must not rely upon any information (including information provided at a tender briefing or site inspection) unless it is confirmed by the Procurement Administrator through the Communication Method.

(**Communication Closing Time**) The Procurement Administrator will not respond to any request for information received after the Communication Closing Time.

* 1. The tender

(**Acceptance of Contract and Scope**) Except to the extent that the Tenderer has detailed a proposed alternative, amendment, qualification or departure in a Tender, the Tenderer will be taken to have unconditionally accepted and agreed to:

* + - 1. be bound by the terms and conditions of the Contract; and
      2. carry out and complete the whole of the obligations described in or to be reasonably inferred from the Tender Documents.

(**Price**) The Price must be submitted exclusive of GST. Where there is any discrepancy between the amount stated in the Form of Tender as the Tenderer's Price and the sum total of the items in any Price Schedule then:

* + - 1. if the Contract provides that it is a lump sum contract, then the sum total of the items in the Price Schedule shall be the Tenderer's Price; or
      2. if the Contract provides that it is a schedule of rates contract or a part lump sum and part schedule of rates contract, then the rate, price or lump sum of each item will prevail over the total shown, and the total shall be adjusted accordingly.

(**Tender Validity Period**) The Tenderer's Tender will remain valid and open for acceptance by the Principal until the end of the Tender Validity Period, unless the Principal consents to the Tenderer withdrawing its Tender. The Principal may request an extension of the Tender Validity Period at any time by giving written notice to the Tenderer. If the Tenderer does not agree to the requested extension then Principal may exclude the Tenderer's Tender from assessment or further assessment as the case may be.

* 1. Tenderer's warranties and representations

(**Warranties and Representations**) By lodging a Tender, the Tenderer warrants and represents that:

* + - 1. (**authority**) the Tender has been signed and lodged by a person with authority to do so on behalf of the Tenderer;
      2. (**basis of Tender**) the Tenderer:
         1. has received or obtained copies of all of the Tender Documents and all information or documents referred to in the Tender Documents;
         2. has not relied on the accuracy, adequacy or completeness of any documents or information provided or any representation made by or on behalf of the Principal in connection with the Procurement Process in preparing its Tender;
         3. has undertaken its own enquiries and investigations to satisfy itself of:

the nature and extent of the Scope, its contractual obligations and all other risks, contingencies and other circumstances which could have an impact on its ability to carry out and complete the obigations it will have under the Contract if its tender is accepted for the Price; and

the suitability, appropriateness and adequacy of the Scope (including, in respect of contracts under which the successful tenderer is required to design works, any preliminary design included in the Scope) for the purposes stated in or to be reasonably inferred from the Scope;

* + - 1. (**accuracy of Tender**)all information provided in or with the Tender is accurate;
      2. (**ability**) the Tenderer and its relevant Personnel:
         1. hold (and are compliant with all requirements of) all necessary competencies, licences (including if necessary, a licence under the *Queensland Building and Construction Commission Act 1991* (Qld)), accreditations, certifications, permits, clearances and other authorisations which will be required for the Tenderer to carry out its obligations under the Contract in the event that its Tender is accepted; and
         2. have and will maintain the necessary experience, expertise and skill to perform its obligations under the Contract in accordance with the requirements of the Contract in the event that its Tender is accepted;
         3. have the resources necessary to comply with the timeframes for the performance of the Contract stated in the Tender Documents (as amended) if at all, pursuant to these Conditions of Tendering;
      3. (**price**) the Price, and all rates, sums and prices included in the Tender allow for:
         1. all of the risks, contingencies and other circumstances which could have an effect on the Tenderer's ability to carry out and complete the obligations it will have under the Contract if its Tender is accepted for the Price, except to the extent that the Contract expressly allows an adjustment;
         2. the provision of all materials, plant, labour and other services necessary for the proper completion of the obligations it will have under the Contract if its Tender is accepted, whether or not those items are expressly mentioned in the Contract; and
         3. unless the Contract expressly allows an adjustment, rise and fall in costs;
      4. (**conduct of Tenderer**) neither the Tenderer nor any of its employees or agents has engaged in any Improper Conduct:
      5. (**competitive neutrality**) if the Tenderer is required by law to comply with principles of competitive neutrality, the Tenderer has properly considered, assessed and complied with the applicable competitive neutrality principles in relation to the Procurement Process and the acceptance by the Principal of the Tenderer’s Tender will not breach those principles;
      6. (**notice**)the Tendererhas notified the Principal in its Tender of any:
         1. ambiguity, inconsistency, uncertainty, error or omission which it has discovered in or from the Tender Documents;
         2. any assumptions that it has made in determining its Price;
         3. further information or investigations which it considers that it requires to enable it to give the warranties and make the representations in this clause 5;

and otherwise gives all warranties and makes all representations which the Contract requires to be given or made by the successful Tenderer. The Tenderer acknowledges that the Principal will rely on these warranties and representations in entering into a contract with the successful Tenderer.

* 1. Lodgement AND OPENING of TenderS

(**Method of lodgement**) A Tender must be lodged:

* + - 1. if the Tender Box is a website, by uploading it to the Tender Box;
      2. if the Tender Box is an email address, by sending it as an attachment to an email to the Tender Box;
      3. if the Tender Box is a physical address, by delivering it to the Tender Box.

The Procurement Administrator may, on request by a Tenderer, allow the Tender to be lodged by an alternative method.

(**Time of Lodgement**) A document forming part of a Tender shall be deemed to have been lodged:

* + - 1. where the Tender Box is a website, at the time that the document is successfully uploaded to the Tender Box, as indicated on the electronic receipt issued to the Tenderer;
      2. where the Tender Box is an email address, at the time that an email attaching the document is successfully delivered to the Tender Box, as indicated on the email system on which the Tender Box is hosted;
      3. where the Tender Box is a physical address, at the time that the document is physically received at the Tender Box; or
      4. where the Tender is lodged by an alternative method allowed by the Procurement Administrator, when it is received by the Procurement Administrator by that method.

(**Tender opening**) Tenders will not be opened publicly and the Tenderer will not be permitted to attend the opening of Tenders.

* 1. assessment of tender

(**Evaluation Criteria**) In determining which Tender is most advantageous to the Principal, each Tender evaluated in accordance with these Conditions of Tendering will be assessed, but not necessarily exclusively, against the Evaluation Criteria.

(**Considerations**) In assessing Tenders, the Principal may consider any information which the Principal reasonably considers to be relevant to its assessment (however obtained), including:

* + - 1. information contained in the Tender or any amendment to or clarification of a Tender
      2. information provided at a meeting with or presentation by the Tenderer;
      3. outcomes from discussions with Tenderer's referees (if any);
      4. information obtained pursuant to clause 7.5;
      5. the Tenderer's past performance under other contracts with the Principal or third parties; and
      6. the reasonably held subjective opinions of the persons appointed by the Principal to evaluate Tenders or any advisor to such persons.

(**Uncertainties**) The Principal may ignore any part of a Tender which is ambiguous, uncertain, unclear or illegible without seeking clarification from the Tenderer and may assess the balance of the Tender.

(**Right** **to exclude**) The Principal may, but shall not be obliged to, reject or exclude from assessment any Tender including:

* + - 1. a Non-conforming Tender, an Alternative Tender or a Late Tender;
      2. a Tender, in respect of which the Principal reasonably believes that:
         1. the Tenderer has failed to comply with these Conditions of Tendering or any request made by or on behalf of the Principal pursuant to them within the time required;
         2. the Tenderer has breached a warranty given or representation made pursuant to these Conditions of Tendering or that a warranty, declaration or representation in the Tenderer’s Tender is false or misleading any material respect;
         3. the Tenderer cannot reasonably comply with the obligations which it will have under the Contract (in the event that its Tender is successful) for the tendered Price;
      3. a Tender which fails to achieve a satisfactory score against any of the Evaluation Criteria, even if the overall score of the Tender is satisfactory;

(**Other information or assistance**) The Principal may undertake its own investigations, or engage third parties to do so on its behalf, in relation to any aspect of a Tender (including verifying any warranty, representation or declaration made or given in the Tender or pursuant to these Conditions of Tendering) or any other matter which it considers relevant to the conduct of the Procurement Process. The Tenderer must cooperate with such investigations and provide all information and assistance reasonably requested by or on behalf of the Principlal in connection with the investigation.

* 1. Acceptance of Tenders

(**Ability to accept**) The Principal is not bound to accept the Tender with the lowest Price or the Tender with the highest score against the Evaluation Criteria, or any Tender. The Principal will, if it accepts a Tender, accept the Tender which it reasonably believes is the most advantageous to it having regard to the Sound Contracting Principles to the extent that they are applicable and relevant to the request for Procurement Process.

(**Local Preference**) The Principal may accept a Tender lodged by a Local Supplier in preference to comparable Tenders from Non-Local Suppliers even if the Tenders from the Non-Local Suppliers have been assessed as more favourable in terms of one or more Evaluation Criteria, so long as the overall differences are not substantial, and so long as it is clear that the Local Supplier can meet the Principal's requirements at an acceptable standard which is generally comparable to that of the Non-Local Suppliers.

(**No contract until formal acceptance**) No binding contract for the provision of any work, services and/or goods by the Tenderer will exist between the parties unless and until the Principal expressly advises the Tenderer in writing that the Tenderer's Tender (as amended by any post-Tender negotiation, if any) is accepted.

(**Form of Contract**) If a Tender is accepted, the successful Tenderer will be required to enter into a contract in the form of the Contract, as amended by agreement between the parties.

(**Unsuccessful Tenderers****)** Unsuccessful Tenderers will be notified after a Tender has been accepted. The Principal may, at its discretion, notify unsuccessful Tenderers of the name of, and Price submitted by, the successful Tenderer. The Principal may provide feedback to unsuccessful Tenderers if requested to do so, but such feedback may be general in nature and will be limited to the Tenderer's Tender only.

* 1. Documents and information

(**Ownership**) The Tender Documents remain the property of the Principal. The Tender will become the property of the Principal upon lodgement.

(**Intellectual Property Rights**) Intellectual Property Rights in documents and information provided on behalf of a party in connection with the Procurement Process remain, as between the parties, with the party on whose behalf they were provided. The Principal and the Tenderer grant each other a perpetual, non-exclusive, royalty free licence to do the things contemplated by clause 9.6. The licence so granted by the Tenderer is irrevocable. The licence granted by the Principal may be revoked at any time on the giving of written notice.

The Tenderer warrants and represents that:

* + - 1. it owns or has a right to use the Intellectual Property Rights in its Tender for the purpose of lodging a Tender and undertaking the obligations which it will have under a contract with the Principal in the events that the Tenderer’s Tender is accepted;
      2. it has the right and authority to grant the licence in this clause 9.2 and the Principal’s exercise of the rights so granted will not infringe the Intellectual Property Rights of a third party.

(**Information Privacy Act**) If the Tenderer collects or has access to 'Personal Information' as that term is defined in the *Information Privacy Act 2009* (Qld) in connection with the Procurement Process, the Tenderer must comply with Parts 1 and 3 of Chapter 2 of that Act in as if the Tenderer was the Principal.

(**Confidentiality**) Except to the extent otherwise provided in these Conditions of Tendering, each party shall keep confidential the documents and information provided by the other party in connection with the Procurement Process which are of their nature confidential. The Tenderer must inform each of its Personnel and any other person to whom confidential information of the Principal is disclosed of the Tenderer’s obligations under this clause 9.4. Subject clause 9.6(b), the Tenderer must return any copies of any documentation provided by or on behalf of the Principal to the Tenderer in connection with the Procurement Process when requested to do so by the Principal.

(**Use of documents and information**) Documents and information provided on behalf of a party to the other party in connection with the Procurement Process (including, if the Tenderer’s Tender is accepted, information relating to the Tenderer’s Price) may be used, copied, modified or disclosed as required by any law and otherwise:

* + - 1. by the Principal, as the Principal considers to be reasonably necessary to properly conduct the Procurement Process, to exercise the rights granted to it in these Conditions of Tendering and/or to properly carry out its functions as a local government authority;
      2. by the Tenderer, as is reasonably necessary to enable the Tenderer to:
         1. prepare the Tender;
         2. obtain legal, accounting or other professional advice in connection with the Tender;
         3. comply with the Tenderer's corporate governance requirements.

If the Tenderer is required by law to disclose confidential information of the Princial, the Tenderer must notify the Principal of this prior to making such disclosure and must only disclose the minimum amount of information required to meet is obligation to disclose.

(**Media**) The Tenderer must not, either on its own account or in conjunction with other parties, issue any publication, advertisement, document, article or information whether verbal or written, in connection with the Procurement Process in any media without the prior approval of the Principal.

* 1. definitions

(**Definitions**) In these Conditions of Tendering, unless the context otherwise requires:

* + - 1. **Alternative Tender** means a Tender which is otherwise a Conforming Tender but which in the opinion of the Principal, contains significant alternatives, qualifications or amendments to or departures from the Contract or the Scope;
      2. **Business Day** means a day that is not a Saturday, Sunday or public holiday at the Site:
      3. **Claim**includes any claim, action, demand, proceeding, suit, defence or set-off, however arising including at law (including a breach of an express or implied term of contract), under statute, in equity, in tort (including for negligence), in quasi-contract, for unjust enrichment and to the extent permitted by law, pursuant to any other principle of law, in connection with the Procurement Process;
      4. **Communication Closing Time** means the time identified as such in the Tender Information;
      5. **Communication Method** means the communication method nominated in the Tender Information;
      6. **Complaints Manager** means the person identified as such in the Tender Information;
      7. **Conditions of Tendering** means the conditions of tendering contained in this Part 3 – Conditions of Tendering of the Request for Tender;
      8. **Conforming Tender** means a Tender which, in the opinion of the Principal:
         1. is substantially in the form and contains substantially all of the information and documentation required by the Response Schedules;
         2. is substantially in accordance with the Tender Format;
         3. does not substantially exceed the Maximum Page Limit (if any); and
         4. contains no significant alternatives, qualifications or amendments to or departures from the Contract or the Scope;
      9. **Contract** means a contract which may be entered into between the Principal and a Tenderer pursuant to the Procurement Process, and which will be in the form contained in Part 4 – the Contract, as amended (if at all) by the express written agreement of the Principal;
      10. **Councillor** has the same meaning as in the *Local Government Act 2009* (Qld);
      11. **Evaluation Criteria** means the evaluation criteria set out in the Tender Information;
      12. **Form of Tender** means the form of that name included in the Response Schedules;
      13. **GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
      14. **Improper Conduct** means:
          1. engaging in any activity or obtaining any interest which results in or is likely to result in any actual, potential or perceived conflict between the interests of the Tenderer and the Tenderer's obligations to the Principal in connection with the Procurement Process;
          2. engaging in misleading or deceptive conduct in connection with the Procurement Process;
          3. engaging in any collusive tendering, anticompetitive conduct, or any other unlawful or unethical conduct with any other Tenderer, or any other person in connection with the Procurement Process;
          4. canvassing, attempting to improperly influence, offering any inducement to or accepting or inviting improper assistance from any Councillor or other Personnel (or former Personnel) of the Principal in connection with the Procurement Process;
          5. using any information improperly obtained, or obtained in breach of any obligation of confidentiality in preparing the Tenderer's Tender;
          6. breaching any law in connection with the Procurement Process; or
          7. engaging in aggressive, threatening, abusive, offensive or other inappropriate behaviour or committing a criminal offence;
      15. **Intellectual Property Rights** means copyright, patents and all rights in relation to inventions, registered and unregistered trademarks (including service marks), registered designs, circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;
      16. **Late Tender** means any Tender that is not received in the Tender Box (or otherwise received by the Principal by an alternative method permitted under the Conditions of Tendering) by the Tender Closing Time;
      17. **Local Supplier**:
          1. where the Principal’s procurement policy provides a meaning of local supplier, has the meaning given in the Principal's procurement policy, a copy of which can be obtained from the Principal upon request; or
          2. where the Principal does not have a procurement policy, or the procurement policy does not provide a meaning of local supplier, means a supplier that:

is beneficially owned and operated by persons who are residents or ratepayers of the local government area of the Principal as determined under the *Local Government Regulation 2012* (Qld); or

has its principal place of business within that local government area; or

otherwise has a place of business within that local government area that solely or primarily employs persons who are residents or ratepayers of that local government area.

* + - 1. **Maximum Page Limit** means the maximum number of pages which may be lodged as, with or in relation to the Tender (including, unless otherwise indicated all attachments, annexures, supplements, parts, schedules or appendices), as stated in the Tender Information;
      2. **Non-Conforming Tender** means a Tender which is not a Conforming Tender or an Alternative Tender;
      3. **Non-Local Supplier** means a supplier (including a Tenderer) that is not a Local Supplier;
      4. **Personnel** includes the officers, employees, agents, representatives, contractors and consultants of a party and any other person or entity for whom that party is vicariously liable;
      5. **Preamble** means Part 1 – Preamble;
      6. **Price** means the price shown in the Tender;
      7. **Price Schedule** means a Response Schedule which provides a breakdown of the price, and which may include rates, lump sums, prices, provisional sums, estimated quantities and other information;
      8. **Principal** means the party identified as such in the Tender Information;
      9. **Procurement Administrator** means the person identified as such in the Tender Information;
      10. **Procurement Process** means the process by which the Principal intends to, or does, invite, assess and where applicable, accept or reject Tenders, an indicative outline of which is included in the proposed timetable in the Tender Information;
      11. **Response Schedules** means the schedules in Part 6 – Response Schedules which are to be lodged in accordance with the Tender Documents, including the Form of Tender;
      12. **Request for Tender** means this request for tender (including Parts 1 to 6) and all documents included in or incorporated by reference into it;
      13. **Scope** means Part 5 – Scope of the Tender Documents and all documents incorporated into it (whether physically or by reference), and includes any amendments provided for in a Tender Addendum;
      14. **Site** means the site or sites identified in the Tender Information;
      15. **Sound Contracting Principles** has the meaning given in section 104(3) of the *Local Government Act 2009* (Qld);
      16. **SpecifiedLoss** means:
          1. any loss or anticipated loss of profit, income, revenue, saving, production; business, contract or opportunity; increase in financing or operating costs; liability for loss or damage suffered by third parties; legal costs (on a solicitor and client basis); fines levied; loss of reputation or embarrassment and the cost of abating or reducing such; any other financial or economic loss; and
          2. any indirect, special or consequential loss, damage, cost, expense or penalty not expressly referred to in the preceding paragraph, howsoever arising;
      17. **Tender** means the tender lodged by a Tenderer in response to this Request for Tender and includes all documents and information lodged with or as part of the tender;
      18. **Tender Addendum** means any communication issued to Tenderers in accordance with these Conditions of Tendering which is identified as a Tender Addendum;
      19. **Tender Box** means the website. email address or physical location identified as the Tender Box in the Tender Information;
      20. **Tender Closing Time** means the closing time detailed in the Tender Information as varied (if at all) pursuant to these Conditions of Tendering;
      21. **Tender Documents** means:
          1. this Request for Tender; and
          2. any Tender Addenda issued pursuant to these Conditions of Tendering,

and includes all documents included in or incorporated by reference into these documents;

* + - 1. **Tender Format** means the format described in the Tender Information;
      2. **Tender Information** means the information contained in Part 2 – Tender Information of this Request for Tender;
      3. **Tender Validity Period** means the period of time identified as such in the Tender Information as extended (if at all) pursuant to clause 4.6;
      4. **Tenderer** means:
         1. any person who lodges a Tender; and
         2. to the extent to which the term can apply to any other person who obtains a copy of any of the Tender Documents during the Procurement Process, also includes such other persons;

and words or terms not defined in these Conditions of Tendering but defined in the Contract have the same meaning as in the Contract, except where the context otherwise requires.

* 1. General PROVISIONS

(**Interpretation of Tender Documents**) The Tender Documents must be read and construed together and are intended to be mutually explanatory.

(**Joint and several obligations**) An obligation of two or more parties binds them jointly and each of them severally and an obligation incurred in favour of two or more parties is enforceable by them severally.

(**Headings**)Clause headings are for reference purposes only and must not be used in interpretation.

(**No limitation**) The words 'include', 'includes' and 'including' shall be read as if followed by 'without limitation'.

(**Grammatical Forms**)Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning. Words importing the singular number include the plural number and words importing the plural number include the singular number.

(**Time**)References to time are to local time in Queensland. Where time is to be reckoned from a day or event, the day or the day of the event must be excluded. If any time period specified in the Tender Documents expires on a day which is not a Business Day, the period will expire at the end of the next Business Day.

(**Discretion**) Unless expressly provided otherwise:

* + - 1. any right of the Principal pursuant to these Conditions of Tendering may be exercised; and
      2. any consent of the Principal required under these Conditions of Tendering may be given, withheld or given subject to conditions,

in the absolute discretion of the Principal without giving reasons and without reference to the Tenderer unless, and then only to the extent that the Conditions of Tendering provide otherwise.

(**Law**) A reference to 'law' includes:

* + - 1. legislation (including subordinate legislation), local laws, by-laws, orders, ordinances, awards, requirements and proclamations of a local government authority, the State of Queensland, the Commonwealth or other Authority having jurisdiction and any related fees and charges; and
      2. certificates, licenses, accreditations, clearances, authorisations, approvals, consents, and permits and any related fees and charges,

which are applicable to the Tender Documents, the Procurement Process or the Contract or which are otherwise in force at any place where an obligation under the Contract is to be carried out.

(**Governing Law**) The Request for Tender and Procurement Process are governed by the laws of Queensland and the Commonwealth of Australia which are in force in Queensland. The Principal and the Tenderer submit to the jurisdiction of the Courts of Queensland, relevant Federal Courts and Courts competent to hear appeals from them.

(**Contra proferentem**) The *contra proferentem* rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.

(**Rights Cumulative)** The rights and remedies of the Principal and the Tenderer provided in the Conditions of Tendering are cumulative on each other and on any rights or remedies conferred at law or in equity.

(**Severance**)If a provision of the Conditions of Tendering is void or unenforceable it must be severed and the provisions that are not void or unenforceable are unaffected by the severance.

(**No waiver**) No waiver by the Principal of a provision of these Conditions of Tendering is binding unless made in writing.

(**Other references**) A reference to:

* + - 1. a person includes any other legal entity and a reference to a legal entity includes a person;
      2. the Tenderer or the Principal includes their respective heirs, executors, successors and permitted assigns;
      3. writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes email and facsimile;
      4. a monetary amount is a reference to an Australian currency amount; and
      5. a measurement or quantity is a reference to an Australian legal unit of measurement as defined under the *National Measurement Act* *1960* (Cth).

Cyclone Imogen disater recovery Works consist of the following treatment types.

Asphalt surfacing

Bitumen spray sealing

Bulk excavate surplus material to spoil and/or remove from site

Bulk filling

Mixed debris Clearing and remove from site

Desilt drainage structures

Foamed bitumen stabilisation

Gravel Resheeting

Gravel/material supplying

Light / Medium / Heavy formation grading

Heavy shoulder grading

In-situ stabilisation

Patch repairs

Pothole repairs

Reinforced concrete reconstruction

Unbound granular base reconstruction

Unbound granular pavement reconstruction

Unsealed shoulder reconstruction

Excavation, repairing and reinstating of drainage structures

Road signage repairing

Repairing with flowable concrete

Concrete pipes replacing

Guide posts or markers replacing

Head/end walls replacing

Sign replacing (complete)

Reshaping of table drains

Rock protection

Stone Pitching Repairs